

AMENDING THE ACT ENTITLED "AN ACT TO REGULATE
THE PRACTICE OF OPTOMETRY IN THE DISTRICT OF
COLUMBIA"

SEPTEMBER 17 (legislative day, SEPTEMBER 13), 1951.—Ordered to be printed

Mr. PASTORE, from the Committee on the District of Columbia,
submitted the following

REPORT

[To accompany S. 106]

The Committee on the District of Columbia, to whom was referred the bill (S. 106) to amend the act entitled "An act to regulate the practice of optometry in the District of Columbia," having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 9, line 23, after the figure "20." insert the letter "(a)".

Page 10, line 6, strike out "examination." and insert "examination."

Page 10, after line 6, insert a new subparagraph as follows:

(b) To persons selling spectacles and (or) eyeglasses and who do not attempt either directly or indirectly to adapt them to the eye, and who do not practice or profess the practice of optometry.

The purpose of the bill is to strengthen the provisions of the District of Columbia Optometry Act. The bill increases the education requirements for the practice of optometry from 3 to 5 years, defines the practice of optometry, prohibits optometrists from engaging in the practice of ophthalmology, provides that the Health Officer of the District of Columbia shall be a member ex officio of the Board of Optometry, and contains other provisions designed to raise the status of the calling. The amendment to the bill is designed to allow persons to sell spectacles and eyeglasses who do not adapt them to the eye or profess to practice optometry.

The Commissioners of the District of Columbia approve the enactment of the bill. It was favorably reported by a unanimous vote of the committee.

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CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the standing rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

[PUBLIC—No. 151—68TH CONGRESS]

[H. R. 3236]

AN ACT To regulate the practice of optometry in the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That the practice of optometry is defined to be the application of optical principles through technical methods and devices in the examination of the human eye for the purpose of determining visual defects, and the adaptation of lenses for the aid and relief thereof.]

That (a) the practice of optometry in the District of Columbia is hereby declared to affect the public health and safety and to be subject to regulation and control in the public interest. Optometry is hereby declared to be a profession and it is further declared to be a matter of public interest and concern that the optometric profession merit and receive the confidence of the public and that only qualified optometrists be permitted to practice optometry in the District of Columbia. All provisions of this Act relating to the practice of optometry shall be construed in accordance with this declaration of policy.

(b) As used in this Act, the term "optometry" means the science devoted to the examination of the human eye; to the prescribing, providing, furnishing, adapting, and employing of lenses, prisms, contact lenses, visual training (orthoptics), and all preventive or corrective optometric methods for the aid, correction, or relief of the human eye; or the analysis of visual functions for such purposes; and the term "optometrist" means a person who practices optometry, or any part thereof, as defined in this subsection.

[SEC. 2. That on and after six months from the passage of this Act it shall be unlawful for any person in the District of Columbia to engage in the practice of optometry or represents himself to be a practitioner of optometry, or attempt to determine by an examination of the eyes the kind of eyeglasses required by any person, or represents himself to be a licensed optometrist when not so licensed, or to represent himself as capable of examining the eyes of any person for the purpose of fitting glasses, excepting those hereinafter exempted, unless he shall have fulfilled the requirements and complied with the conditions of this Act and shall have obtained a license from the District of Columbia Board of Optometry, created by this Act; nor shall it be lawful for any person in the District of Columbia to represent that he is a lawful holder of a license as provided by this Act when in fact he is not such lawful holder, or to impersonate any licensed practitioner of optometry, or shall fail to register the certificate as provided in section 13 of this Act.

[Any person violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction for the first offense shall be fined not more than \$500, and upon conviction for any subsequent offense shall be fined not less than \$500 nor more than \$1,000, or be imprisoned in the District jail not less than three months nor more than one year, or both, in the discretion of the court.]

SEC. 2. (a) It shall be unlawful for any person in the District of Columbia to engage in the practice of optometry or represent himself to be a practitioner of optometry, or attempt to determine by an examination of the eyes the kind of eyeglasses required by any person, or represent himself to be a licensed optometrist when not so licensed, or to represent himself as capable of examining the eyes of any person for the purpose of fitting glasses, excepting those hereinafter exempted, unless he shall have fulfilled the requirements and complied with the conditions of this Act and shall have obtained a license from the District of Columbia Board of Optometry, created by this Act; nor shall it be lawful for any person in the District of Columbia to represent that he is a lawful holder of a license as provided by this Act when in fact he is not such lawful holder, or to impersonate any licensed practitioner of optometry, or shall fail to register the certificate as provided in section 13.

(b) *It shall be unlawful in the District of Columbia for any person to include in an advertisement offering to furnish to the public professional services relating to the examination of the human eye; or in an advertisement relating to the analysis of ocular functions; or in an advertisement relating to the prescribing, providing, furnishing, adapting, and employing of lenses, prisms, contact lenses, ocular exercises, visual training, orthoptics, and all preventive or corrective optometric methods for the aid, correction, or relief of the human eye; or in an advertisement relating to the furnishing to the public of spectacles, eyeglasses, lenses, frames, mountings, or similar prosthetic devices, whether such advertisement is made by print, radio, letter, display, or any other means: (1) the fee for such professional services, or any reference to such fee; (2) the prices of such prosthetic devices, or any reference to such prices; (3) the terms of credit or payment for such professional services or prosthetic devices, or any reference to such terms; (4) an offer of such professional services or prosthetic devices at a discount, as a gift, or free of charge, or any reference to such an offer; or (5) a guaranty of satisfaction of such professional services or prosthetic devices, or any reference to such a guaranty, except that it shall not be unlawful for each such advertisement to contain a single statement announcing the fact that optometric services may be obtained on credit.*

(c) *It shall be unlawful in the District of Columbia for any person to sell, dispense, or supply to any person an ophthalmic lens which is not of first quality, unless prior thereto, such person is informed that such lens is substandard and designate the particulars in which it is substandard. For the purpose of this subsection, a substandard lens is one which has been sold by the manufacturer as substandard, or which according to usage in the optometric profession is not of first quality.*

(d) *Any person violating any of the provisions of this section shall upon conviction be fined not more than \$300, or imprisoned not more than ninety days.*

SEC. 3. That the Commissioners of the District of Columbia shall appoint a Board of Optometry consisting of the Health Officer of the District of Columbia, *ex officio*, and five persons, such persons and those thereafter appointed as herein-after provided for to be selected from a list of ten optometrists submitted by a majority vote at some regular meeting of the District of Columbia Optometric Society, each of whom shall be a citizen of the United States, over the age of twenty-one years, actually engaged in the practice of optometry as defined in section 1 of this Act, and who shall have been engaged in the actual and continuous practice of the same in the District of Columbia for at least three years next preceding his appointment. The said Board of Optometry shall be so appointed within thirty days after the approval of this Act, and of the first appointees the said commissioners shall designate two, who shall serve for a term of one year, two for a term of two years, and one for a term of three years from the date of said appointment, and each year thereafter the commissioners shall appoint successors to those whose terms expire as members of said board to serve for a term of three years; and in case of death, resignation, or removal of any member the vacancy for the unexpired term shall be filled by the said commissioners in the same manner as other appointments.

Each appointee to the Board of Optometry as hereinbefore provided for shall, within fifteen days from the date of his appointment, qualify by subscribing to the following oath of office before any officer authorized to administer oaths in the District of Columbia: "I do solemnly swear that I will faithfully, impartially, with fidelity and according to law, perform the duties of a member of the Board of Optometry of the District of Columbia, to the best of my ability, so help me God."

Upon such oath being filed with the commissioners, they shall issue to said member a certificate of his appointment.

The commissioners are herewith vested with authority to remove from office at any time any member of said board for neglect of duty, incompetency, improper conduct, or when the license to practice optometry of any member of said board shall have been suspended or revoked.

SEC. 4. That the first meeting of the Board of Optometry created under the provisions of this Act shall be held within thirty days from the date of appointment, at which meeting and at each annual meeting thereafter the members shall organize by electing a president, vice president, and a secretary-treasurer, who shall hold office for one year or until their respective successors have been appointed and have qualified. Said board shall hold its meetings at the end of every six months thereafter at such hour and place as it may designate for the examination of applicants for license to practice optometry in the District of Columbia and for the transaction of such other business as may legally come before it; and may hold such additional meetings upon the call of the president of the said board, or upon a call of a majority of the members of the board as the same become necessary

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for the examination of applicants for licenses or for carrying into effect the provisions of this Act. If the date of any of said meetings shall fall upon a Sunday or a legal holiday, said meeting shall be held on the first business day thereafter.

Three members of the board shall constitute a quorum for the transaction of business, and should a quorum not be present on the day appointed for any meeting those present may adjourn from day to day until a quorum be present.

[**Sec. 5.** That the board shall have authority and it shall be its duty to make all bylaws and necessary regulations for the proper discharge of its duties, and submit same to the Commissioners of the District of Columbia for approval.]

Sec. 5. The board shall have authority (a) to prescribe minimum standards for refraction, (b) to make reasonable regulations for the proper discharge of its duties, and (c) to make reasonable regulations prohibiting advertising by means of large display, glaring light sign, or display or sign containing as a part thereof the representation of the human eye or any part thereof. Any such regulation shall, before it becomes effective, be approved by the Commissioners of the District of Columbia: Provided, That prior to the approval of any regulation, notice thereof shall be given by publication in two newspapers of general circulation in the District of Columbia at least ten days prior to the date set for a hearing on such proposed regulation, and a hearing had thereon before the said Commissioners.

Sec. 6. That before entering upon the discharge of the duties of his office the secretary-treasurer of the board shall give such bond for the performance of his duties as the Commissioners of the District of Columbia shall require, the premium of such bond to be paid from the funds in the possession of the board.

Sec. 7. That the secretary-treasurer shall receive as compensation for his services an annual salary to be determined by the board which salary and all other expenses of the board necessary in carrying out the provisions of this Act shall be paid from the funds in the custody of the secretary-treasurer for the use of the board upon requisition signed by the secretary-treasurer and countersigned by the president of the board; and on the 30th day of June of each year if any surplus remains the members of the board shall be paid such reasonable compensation out of the funds in the custody of the board as the Commissioners of the District of Columbia may determine: *Provided, however,* That said compensation and expenses shall not exceed the amount received by the board under the provisions of this Act.

Sec. 8. That the District Board of Optometry shall have an official seal and shall keep a record of its proceedings, a record of registered optometrists and of licenses by it revoked. Its records shall be open to public inspection between the hours of nine and three o'clock of any business day, and it shall keep on file all examination papers for a period of one year after each examination. A transcript of an entry in such records, certified by the secretary-treasurer, under the seal of the board, shall be prima facie evidence of the facts therein stated. The board shall on or before the 10th day of July in each year make a report to the Commissioners of the District of Columbia of its official acts during the preceding twelve months ending June 30, and of its receipts and disbursements, and a full and complete report of the conditions pertaining to optometry in the District of Columbia.

Sec. 9. That on and after six months from the passage of this Act, as set forth in section 2 hereof, every person desiring to practice optometry, or, if now in practice, to continue the practice thereof, except as herein otherwise provided, shall take an examination as provided in this Act and shall fulfill the other requirements as in this Act provided.

Sec. 10. That any person who has been engaged in the practice of optometry for at least two full years (one of which must have been in the District of Columbia), immediately prior to the passage of this Act, who is more than twenty-one years of age and of good moral character, shall be entitled to take the limited examination covering the following only:

- (a) The limitations of the sphere of optometry.
- (b) The essential scientific instruments used in optometry.
- (c) The form and power of lenses used in optometry.
- (d) A correct method of measuring hypermetropia, myopia, astigmatism, and presbyopia.
- (e) The writing of formulas or prescriptions for the adaptation of lenses in aid of vision.

Any person who has previously taken the limited examination and received certificate of the same as herein provided may also, if he so desires, take the standard examination at any time, any provisions in section 11 hereof to the contrary notwithstanding: *Provided, however,* That failure to pass the standard examina-

tion after having qualified under the limited examination as in this paragraph set forth shall not disqualify him as a lawful practitioner.

[**Sec. 11.** That any person over the age of twenty-one years, of good moral character, who has had a preliminary education equivalent to a two years' course in a first-grade high school (which shall be determined either by examination or by certificate acceptable to the board as to work done in such approved institution), and who is a graduate of a school of optometry in good standing (as determined by the board and which maintains a course in optometry of not less than one thousand hours), shall be entitled to take the standard examination. Such standard examination shall consist of tests in—

- (a) Practical optics.
- (b) Theoretic optometry.
- (c) Anatomy and physiology and such pathology as may be applied to optometry.
- (d) Practical optometry.
- (e) Theoretic and physiologic optics.]

Sec 11. Any person over the age of twenty-one years, of good moral character, who has had a preliminary education equivalent to a four years' high-school course of instruction acceptable to the Board (which shall be determined either by examination or by certificate as to work done in an approved institution), and who is after the effective date of this amended section a graduate of a school or college of optometry in good standing (as determined by the Board and which maintains a course in optometry of not less than five years), shall be entitled to take the standard examination. Such standard examination shall consist of test in—

- (a) Practical optics;
- (b) Theoretic optometry;
- (c) Anatomy and physiology and such pathology as may be applied to optometry;
- (d) Practical optometry;
- (e) Theoretic and physiologic optics;
- (f) Theory and practice of orthoptics;
- (g) Theory and practice of contact lens fitting.

SEC. 12. That the board, with the approval of the Commissioners of the District of Columbia, is authorized and empowered to alter, amend, and otherwise change the educational standards at any time, but in altering, amending, or changing said standards the board shall not be permitted to lower the same below the standards herein set forth.

SEC. 13. That every person desiring to be licensed as in this Act provided shall file with the secretary-treasurer of the board upon appropriate blank to be furnished by said secretary-treasurer an application accompanied by the recommendation of two reputable citizens, verified by oath, setting forth the facts which entitled the applicant to examination and license under the provisions of this Act. The said board shall hold at least two examinations each year. In case of failure at any standard examination the applicant, after the expiration of six months and within two years, shall have the privilege of taking a second examination by the board without the payment of an additional fee. In case of failure at the limited examination hereinbefore provided for the applicant shall, after the expiration of six months and within two years, have the privilege of taking a second examination without the payment of an additional fee.

Every applicant who shall pass the standard examination or the limited examination, as the case may be, and who shall otherwise comply with the provision of this Act, shall receive from the said board under its seal a license entitling him to practice optometry in the District of Columbia, which license shall be duly registered in a record book to be properly kept by the secretary-treasurer of the board for that purpose which shall be open to public inspection; and a duly certified copy of said record shall be recorded in the clerk's office of the Supreme Court of the District of Columbia, and shall be admitted as prima facie evidence in all courts of the District of Columbia in the trial of any cause, and it shall be the duty of the clerk of the Supreme Court of the District of Columbia to keep a special book for the purpose of recording said licenses, and shall, upon application and by the payment of a fee of 50 cents, deliver to any person applying therefor a certificate that the license has been recorded in compliance with the provisions of this Act. Each person to whom a certificate of license shall be issued by said board shall keep same displayed in a conspicuous place in his principal office or place of business wherein said person shall practice optometry, and shall, whenever required, exhibit the said certificate to any member or agent of the board.

SEC. 14. That the said board shall charge the following fees for examinations, registrations, and renewals of certificates: The sum of \$25 for a standard or a limited examination. Every registered optometrist who desires to continue the

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practice of optometry shall annually, on or before the 10th day of January of each year, pay to the secretary-treasurer of the board a renewal registration fee to be fixed annually by the board, not to exceed \$10, for which he shall receive a renewal of his certificate. In case of neglect to pay the renewal registration fee as herein provided the board shall have authority to revoke such license and the holder thereof may be reinstated by complying with the conditions specified in this section, but no license or permit may be revoked without giving sixty days' notice to the delinquent, but the board shall only have the right to renew such license on the payment of the renewal fee with penalty of \$5: *Provided*, That retirement from practice for a period of not exceeding five years shall not deprive the holder of said license of the right to renew the same upon the payment of the fee herein required.

SEC. 15. That the board shall adopt a seal and license of suitable design and shall have an office in the District of Columbia where examinations shall be held and where all of the permanent records shall be kept.

[SEC. 16. That the board may in its discretion refuse to grant a license to any applicant and may cancel, revoke, or suspend the operation of any license by it granted for any of the following reasons: The conviction of crime involving moral turpitude, habitual use of narcotics, or any other substance which impairs the intellect and judgment to such an extent as to incapacitate anyone for the duties of optometry, or for a conviction as provided in section 2 of this Act.]

SEC. 16. (a) *The Board may, in its discretion, after a hearing as provided in section 17, refuse to grant a license to any applicant for any of the following reasons:*

(1) *That the applicant has been convicted of a crime involving moral turpitude.*

(2) *That the applicant is a habitual user of narcotics or any other drugs which impair the intellect and judgment to such an extent as to incapacitate the applicant for the duties of an optometrist.*

(b) *The Board may, in its discretion, after a hearing as provided in section 17, cancel, revoke, or suspend the operation of any license by it granted for any of the following reasons:*

(1) *That such license was procured through fraud or misrepresentation.*

(2) *That the holder thereof has been a habitual user of narcotics or any other drugs which impair the intellect and judgment to such an extent as to incapacitate the holder for the duties of an optometrist.*

(3) *That the holder thereof has been convicted of a crime involving moral turpitude.*

(4) *That the holder thereof has been guilty of advertising professional superiority or the performance of professional services in a superior manner; advertising prices for professional services; advertising contrary to regulations prescribed by the Board of Optometry in accordance with section 5 of this Act; employing or making use of solicitors or free publicity press agents, directly or indirectly, or advertising any free optometric service or free examination; or advertising to guarantee optometric services.*

(5) *That the holder thereof has been guilty of practicing while his license is suspended.*

(6) *That the holder thereof has been convicted of an offense in violation of section 2 of this Act.*

(7) *That such person has been guilty of practicing optometry while suffering from an infectious or otherwise contagious disease.*

(8) *That the holder thereof has been guilty of using the title "Doctor" or "Dr." as a prefix to his name without using the word "Optometrist" as a suffix to his name.*

(9) *That the holder thereof has been guilty of willfully deceiving or attempting to deceive the Board or its agents with reference to any matter under investigation by the Board.*

(10) *That the holder thereof has been guilty of violating the provisions of this Act or aiding any person to violate this Act.*

(11) *That the holder thereof has been guilty of practicing in the employment of or in association with any person who is practicing in an unlawful manner as prohibited by this Act, or the regulations adopted under the authority of this Act.*

[SEC. 17. That any person who is the holder of a license or who is an applicant for a license against whom any charges are preferred shall be furnished by the board with a copy of the complaint and shall have a hearing before the board at which hearing he may be represented by counsel. At such hearing witnesses may be examined for and against the accused respecting such charges; the board shall thereupon pass upon said charges.]

SEC. 17. *Any person who is the holder of a license or who is an applicant for a license against whom any charges are preferred shall be furnished by the Board with*

a copy of the complaint and shall have a hearing before the Board at which hearing he may be represented by counsel. At such hearing witnesses may be examined for and against the accused respecting such charges; the Board shall thereupon pass upon such charges. An appeal may be taken from the decision of the Board to the United States District Court for the District of Columbia.

SEC. 18. That any applicant for a license who has been examined by the Board of Optometry in any of the States of the United States which through reciprocity similarly accredits the holder of a license issued by the Board of Optometry of the District of Columbia to the full privileges of practice within such State may on the payment of a fee of \$25 to the said board and on filing in the office of the board a true and attested copy of said license, certified by the president and secretary-treasurer of the said board, showing the same and also showing that the standard of requirements adopted and enforced by said board is equal to that provided by this Act, shall without further examination receive the license: *Provided*, That such applicant has not previously failed at any examination held by the Board of Optometry of the District of Columbia.

[SEC. 19. That nothing in this Act shall be construed as conferring on the holder of any license issued by said board the right to use any title or any word or abbreviation indicating that he is engaged in the practice of medicine, surgery, or the treatment of the eye, of the diagnosis of diseases of or injuries to the human eye, or the writing or issuing of prescriptions for the obtaining of drugs or medicine in any form for the treatment or examination of the human eye.]

SEC. 19. The holder of any license issued by said Board shall not by reason thereof have the right to engage in the practice of medicine, surgery, or the treatment of the eye, of the diagnosis of diseases or of injuries to the human eye other than the recognition of pathological conditions and the referral for proper professional care, or the issuing of written or verbal prescriptions for the obtaining of drugs or medicine in any form for the treatment or examination of the human eye or to use any title or any word or abbreviation indicating that he is engaged in the practice of medicine.

[SEC. 20. That the provisions of this Act shall not apply—

(a) To physicians and surgeons practicing under authority or license issued under the laws of the District of Columbia, for the practice of medicine and surgery.

(b) To persons selling spectacles and (or) eyeglasses and who do not attempt either directly or indirectly to adapt them to the eye, and who do not practice or profess the practice of optometry.]

SEC. 20 (a). The provision of the Act, except the provisions of subsections (b), (c), and (d) of section 2, shall not apply to a person licensed to practice in the District of Columbia either as the result of having passed an examination given by the Board of Examiners established by section 12 of the Act approved February 27, 1929, as amended, or who, by reason of reciprocity, previous practice, or a diploma issued by a national examining board, is licensed as though he had passed such examination.

(b) To persons selling spectacles and (or) eyeglasses and who do not attempt either directly or indirectly to adapt them to the eye, and who do not practice or profess the practice of optometry.

SEC. 21. That wherever in this Act the singular number is used it shall be interpreted as meaning either singular or plural if compatible with the sense of the language used, and when in this act the masculine gender is used it shall be construed as meaning also the feminine gender if not inconsistent with such use.

SEC. 22. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 23. Nothing contained in this Act, as amended, shall be construed as prohibiting—

(a) a nurse or technician from functioning under the immediate supervision and direction of a physician licensed to practice in the District of Columbia: *Provided*, That in such functioning the nurse or technician does not engage directly or indirectly in the practice of optometry as defined in this Act or any part thereof;

(b) a person from dispensing, providing, or furnishing ophthalmic materials on prescription of a physician or optometrist, or repairing, replacing, or duplicating ophthalmic materials or devices;

(c) a person from selling spectacles or eyeglasses: *Provided*, That such person does not attempt either directly or indirectly to adapt them to the human eye, or does not otherwise attempt to engage in the practice of optometry.

(d) price advertising of spectacles, eyeglasses or similar prosthetic devices or parts thereof not prepared, manufactured or sold upon the prescription of a physician or an optometrist.

